

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRIMINAL MINUTES

Date: June 13, 2024

Time: 11:11-11:45
36 minutes

Judge: EDWARD M. CHEN

Case No.: [17-cr-00533-EMC-6](#) **Case Name:** USA v. Russell Taylor Ott

Attorneys for Government: Kevin Barry, Ajay Krishnamurthy, Richard Ewenstein, Daniel Pastor

Attorneys for Defendant: Robert Waggener, Marcia Morrissey

Defendant: ☒ Present ☐ Not Present

Defendant's Custodial Status: ☒ In Custody ☐ Not in Custody

Deputy Clerk: Vicky Ayala

Court Reporter: Jennifer Coulthard

Probation: Monica Romero

PROCEEDINGS

Sentencing (In-Person).

SUMMARY

Parties stated appearances. Victim Impact Statements from Ann Crail, Johnny Crail and Stevie Silva.

Defendant stated he has reviewed the Pre-Sentence Report with his attorney.

Criminal History Category: 1. Adjusted Offense Level: 43. Guideline Range: Life (Counts 1 and 3)

Defendant declined to address the Court.

Government had no objections to the PSR. Defense counsel objected to portions of the PSR. Objection Number One: Defense counsel objected to the entirety of the offense conduct section in paragraphs 56-74. Court overruled the objection and noted the objection for the record. Objection No. Two: Defense counsel objected to the inclusion of information regarding the extortion of Steve Verhagen and Troy Conte, referenced in paragraphs 92 through 105, and the inclusion of the robbery of Nicholas Spencer, Nicholas Gruber, and Eban Hale, referenced in paragraphs 106 through 122. Court overruled the objection. Defense counsel indicated, there are additional objections to PSR of material that wasn't contained in the draft PSR. There is an objection to page 8, paragraph 47, footnote 2, after the beginning of the second sentence beginning with the word "however" and the material attributed to the testimony of Mssrs. Mertz, Malvino and Verhagen. Defense counsel requested all text after the first sentence be stricken from the PSR. Court ordered all text after the first sentence be stricken from the PSR. Defense counsel objected to paragraph 49, page 9 regarding "setting the tone". Court ordered sentence be stricken from the PSR. Defense

counsel objects to paragraph 49, page 9 regarding the reference of defendant referring to himself as “chief”. Court overruled objection. Defense counsel objected to paragraph 53, first two sentences. Court overruled objection to first sentence and ordered the words “upon arrival” be stricken from the PSR. Defense counsel objected to paragraph 75 regarding the assault on Troy Conte. Court ordered the words, “was present during the initial assault” be inserted in the PSR.

The Court considered and discussed 3553(a) factors and acknowledged the seriousness of the crimes. The Court discussed mitigating factors including Mr. Ott’s age and health condition.

The Court varied downward as to Count 1 which is warranted under 3553(a), other factors considered, were more thoroughly stated on the record.

Court indicated it has no discretion to deviate from the statutory life sentence without the possibility of parole on Count 3 as mandated by Congress.

The Court imposed a sentence of Life. This term consists of terms of 180 months on Count 1, 120 on Count 2 and life imprisonment on Count 3, all counts to be served concurrently. The Court also imposed a five-year term of supervised release. This term consists of five years on Counts 1 and 3 and three years on Count 2 to run concurrently. Defendant is to pay a special assessment of \$300.00. Court ordered fine waived. Court recommends defendant be placed in BOP close to the San Francisco Bay Area that will accommodate defendant’s medical needs. Defense counsel will provide language regarding defendant’s list of medications to be added in the Judgment.

Court stated, if restitution is sought, the request should be filed in 30 days.

With regards to forfeiture, the parties have met and conferred and agreed the Government will file a proposed order of forfeiture on 7/2/2024; defense counsel will file a response on 7/16/2024 and Government will file a reply on 7/30/2024. Court set a hearing date on 8/21/2024, at 9:00 AM. Court ordered defendant to be present for the hearing.

Judgment will be held in abeyance until forfeiture issues have been resolved.